

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8

GENERAL DIE CASTERS, INC.

Employer

and

CASE NO. 8-RC-16940

**TEAMSTERS LOCAL 24 A/W INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

Petitioner

REPORT ON OBJECTIONS

Pursuant to a Stipulated Election Agreement approved by me on February 8, 2008, an election was held on March 14, 2008 among the employees in the following described unit:

All full-time and regular part-time production and maintenance employees, including all cast set-up employees, cast operators, re-melt employees, trim set-up and stock employees, trim and utility process technicians, tool room employees, quality assurance employees, truck drivers, janitorial employees, machine operators, sander/blasters, shippers, safety coordinators, and all shift leads employed by the Employer at its facilities located at 2150 Highland Road, Twinsburg, Ohio, and 6212 Akron Peninsula Road, Peninsula, Ohio but excluding all office clerical employees, professional employees, and all guards and supervisors as defined in the Act.

The tally of ballots issued after the election shows that of approximately 123 eligible voters, 110 cast ballots, 62 of which were cast for and 48 against the Petitioner. There were 11 challenged ballots, a number insufficient to affect the result of the election.

Thereafter, the Employer filed timely Objections To Conduct Affecting The Results Of The Election, a copy of which was duly served upon the Petitioner. A copy of the Employer's Objections is attached.¹

¹ The petition was filed on January 25, 2008. I have considered only conduct occurring during the critical period, which begins on and includes the date of the filing of the petition and extends through the election. *The Ideal Electric and Manufacturing Company*, 134 NLRB 1275 (1961).

Pursuant to Section 102.69 of the Board's Rules and Regulations, an investigation of the Objections has been conducted, and I make the following findings and conclusions:

PREFATORY NOTE

I have concluded that the Employer's Objection No. 2 and certain unalleged objectionable conduct discovered during the investigation raise issues of fact and credibility which cannot be resolved in an *ex parte* proceeding. Accordingly, by separate document issued this date, I have ordered those Objections to hearing.

THE OBJECTIONS

Objection No. 1

Objection 1 alleges that the Union "Falsely informed the employees of the Employer that if the Union were unsuccessful in securing the vote the Employer's Chief Executive Officer intended to implement a 12 hour shift."

In support of this objection, the Employer presented one witness, (Witness A) and documentary evidence. Witness A stated that the Petitioner falsely and without foundation, represented to the employees that the first thing the Company would do if the Union were unsuccessful in the election would be to implement a 12 hour shift. The 12 hour shift was a key issue during the organizing campaign.

The Employer announced, prior to organizational efforts, that it would implement a 12 hour shift. This announcement met with great employee resistance, therefore, the Employer decided against implementing. Shortly thereafter, the exact date being unknown, the Employer informed its employees it would not, under any circumstances, implement a 12 hour shift.

In support of the Objection, the Employer provided a letter dated March 11, 2008 written and sent to bargaining unit employees by Union Representative Kenneth Ramser. The letter states as follows:

It was frustrating and sad to those who wanted change at General Die Casters to witness the fear that Mr. Mathias and Mr. Lennon and their hired goon instilled in their many friends and co-workers in order to scare them into voting no, and keeping things exactly as they are, except for the 12 hour shifts that Mr. Mathias intends to implement after the vote.

The Union

The Union acknowledges that the 12 hour shift was a primary issue in the organizing campaign but stated that the Employer informed employees during the campaign that it would temporarily abandon 12 hour shifts. During the campaign a petition also appeared on the shop floor soliciting workers to sign in support of 12 hour shifts. The Union suspected that the petition

was sponsored by the Employer or its agents. As the election date neared, the Employer also informed employees that many workers had approached it in support of 12 hour shifts.

The Union merely analyzed the above information and came to the conclusion that the Employer's behavior indicated it would implement 12 hour shifts if the Union were unsuccessful in the election. On this basis, the Union prepared and sent the March 11, 2008 letter to bargaining unit employees.

Analysis

In *Midland National Life Insurance Company*, 263 NLRB 127 (1982) the Board returned to its standard established in *Shopping Kart Food Markets, Inc.*, 228 NLRB 1311 (1977), with regard to the objectionable nature of misrepresentations made in the course of an election campaign.

In *Midland*, the Board held that it would no longer probe into the truth or substance of misrepresentations. The Board would, however, continue to intervene, "in instances where a party has engaged in such deceptive campaign practices as improperly involving the Board and its processes, or the use of forged documents which render the voters unable to recognize the propaganda for what it is." As long as the campaign material is what it purports to be, mere propaganda, the Board leaves the task of evaluating its contents to the employees.

In the instant matter no forged documents were used, nor was there any attempt to improperly involve the Board or its processes. Thus the letter and the statement offered in support of this objection do not warrant setting aside the election. The Objection involves nothing more than an alleged misleading campaign statement. I shall, therefore, recommend that Objection No. 1 be overruled.

Objection No. 3

Objection 3 alleges, "Throughout the election process and on the eve of election, the Petitioner falsely accused the Employer of wrongfully engaging in a pattern of illegal threats, lies, misrepresentations, and promises in an effort to wrongfully and improperly discredit the Employer in the eyes of the employees."

In support of this objection, the Employer provided seven documents that were allegedly distributed by the Union throughout the campaign. Six of the documents are flyers. A letter dated February 8, 2008, authored by the President of Teamsters Local 24 and sent to CEO James Mathias, was also distributed to employees. Witness A provided information regarding one of the flyers.

Four of the flyers contain cartoons and generally show the Union in a good light while portraying the Employer unfavorably. Cartoon Flyer A depicts a six frame comic strip with the Employer shown as a ghost attempting to scare employees, as an angel to confuse employees, and as a soldier claiming to be doing his duty. The flyer calls for employees to "*Remember Why You Called the Teamsters*" and lists such items as "*12-hour shifts, senior workers not receiving*

raises, and unjust, unfair, disrespectful treatment and favoritism.” It also lists what the Union is “*Fighting For*” such as a “*3 year contract with significant raises, cost of living raises, and a Teamster health care plan.*”

Cartoon Flyer B depicts a two story outhouse with the “Bosses” on the top floor and employees on the bottom floor. The upper level door has a sign which reads, “*Employees Keep Out.*” The flyer headline reads, “*You Will Be Hearing A Lot of Lies from Management.*” The flyer goes onto list “*The Facts,*” such as that “*ninety eight percent of all union contracts are settled without a strike, union contracts protect workers’ benefits, and a union contract provides a written guarantee of the terms of your employment and fair treatment on the job.*”

Cartoon Flyer C depicts a man in a three piece suit, lighting a cigar, standing next to several bags of money. The flyer is titled “*What Will Our Employer Say About a Union?*” The flyer claims that the Employer will use the “carrot and stick” approach and that the Employer may promise, “*An extra week’s vacation or a little more money “someday” or some new benefit---if employees vote against the union.*” The flyer goes onto claim that the “stick” used by the Employer during the campaign will be to “*threaten to close down the plant if the union wins---or clean house to get rid of folks who are for the union.*”

Cartoon Flyer D depicts a “Godzilla” monster and contains the headline, “*Don’t Let Management Scare You Out of Higher Wages, Better Retirement, Improved Benefits, Better Working Conditions, Workplace Justice, End of Favoritism, and Dignity and Respect on the Job.*” The flyer makes such claims as, “*Your employer is looking to expand his operations right here in Peninsula. He’s not moving to Mexico or anywhere else.*” The flyer also claims that “*99% of all Teamsters first contracts are settled without a strike*” and that “*the Teamsters will shift tens of thousands of dollars into each of your family’s pockets in your first Teamster contract—and your bosses will still be rich.*”

The fifth flyer is titled, “*Your Bosses Have Decided to Lie to You, Violate Your Rights, and Break the Law to Stop You from Having the Teamsters Represent You.*” The first heading contained in the flyer is, “*Here’s the Truth About the Law*” and states “*Everything you currently have---wages, benefits, bonuses and working conditions must remain as they are during the organizing campaign and right up until you vote on your new contract.*”

Under the above heading information is also provided regarding raises to be granted during an organizing campaign and claims that the “*weasel hired by Mathias to disrespect you, lie to you, and turn you against each other was never a Teamster and has a history of lying and violating Federal labor laws.*” The flyer states, “*see charges on back---call the Labor Board at 216-522-3716 to verify your rights.*” However no charges were provided with the flyer during the investigation. Finally, the flyer also lists items the Teamsters will demand in a contract such as significant wage increases and fully paid healthcare.

All Cartoon flyers and the fifth flyer described above contain either the “Teamster” or “Union Vote Yes” insignias.

The sixth flyer is headed, "*Question and Remembrance of the Day.*" It is in large type and states, "*When Tom and Jim first bought the company they took away 2 cost of living raises a year and said they would compensate us with raises that would cover the loss. Question of the day; what happened to that bright idea? Vote yes for the union and have a say so in what's going on.*" Witness A stated that the information contained in the sixth flyer is fraudulent since the action described was taken by the previous owners. Nothing contained in the flyer indicates it is from the Teamsters.

Finally, the Employer provided a letter written by Travis Bornstein, President of Local 24. The letter is dated February 8, 2008 and is addressed to John Mathias. It was printed on Teamster stationery and is titled "*Copy of letter sent to James Mathias requesting an open discussion or debate with the Teamsters in front of General Die Casters Employees.*"

The letter claims that Mathias has been "*acting like any employer who when confronted by his workforce joining together to seek Union representation uses threats, intimidation, suspensions, and fear mongering to stop your valued workforce from having a voice on the job.*" The letter goes on to state that the Employer has nothing to fear by unionization by the Teamsters. It ends by inviting Mathias to "*have an open and honest discussion or debate in front of your hardworking employees.*"

The Union

The Union provided identical copies of the February 8, 2008 letter, Cartoon flyers A and D, and the flyer designated above as the "fifth flyer," acknowledging it distributed those particular items during the campaign. The Union stated that it merely distributed campaign material in response to misrepresentations the Employer made during the campaign. Specifically, the Union alleged that the Employer's Labor Consultant lied to employees about raises and promotions and threatened to move the Employer's operation to Mexico and/ or to close the facility so that the owners could retire to Florida.

Analysis

As in Objection 1, the evidence provided in support of Objection 3 is appropriately analyzed under *Midland National Life Insurance Company, 263 NLRB 127 (1982)*. It is clear that forged documents were not used and there was no attempt to improperly involve the Board or its processes. The documents provided by the Employer, with the possible exception of the *Question and Remembrance Day* flyer, all contain marks which identify them as Teamster documents. The *Remembrance Day* flyer, even if attributed to the Union, appears to be nothing more than a typewritten document without attempt to make it look like an official document prepared by either the Board or the Employer. The campaign material provided by the Employer in support of the Objection is nothing more than mere propaganda under *Midland* and, therefore, is not objectionable.

Based on the above, I also find that the Employer's Objection 3 is without merit and recommend that it be overruled.

Conclusions and Recommendations

I conclude that the issues raised by the Employer's Objections 1 and 3 are without merit and recommend that they be overruled.²

Dated at Cleveland, Ohio this 17th day of April 2008.

/s/ Frederick J. Calatrello

Frederick J. Calatrello, Regional Director
National Labor Relations Board
Region 8

Attachment

² Under the provisions of Section 102.69 of the Board's Rules and Regulations, exceptions to this report may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099-14th Street, N.W. Washington, D.C. 20570. Exceptions must be received by the Board in Washington by May 1, 2008. Under the provisions of Section 102.69 (g) of the Board's Rules and Regulations, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections and/or challenges and which are not included in this report, are not part of the record before the Board unless appended to the exceptions or opposition thereto which the party files with the Board. Failure to attend to the submission of the Board copies of evidence timely submitted to the Regional Director and not included in the report shall preclude a party from relying upon the evidence and any subsequent related unfair labor practice proceeding.